

HOUSE BILL No. 1381

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-26-2.

Synopsis: Shoreline permits and enforcement of judgments. Allows the natural resources commission to adopt rules under which certain permits will expire more than two years after they are issued. Allows the determination made in the mediation by the department of natural resources of a dispute among persons with competing riparian interests to be enforced in a civil proceeding.

Effective: July 1, 2009.

Dodge, Dembowski

January 13, 2009, read first time and referred to Committee on Natural Resources.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1381

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-26-2-17 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. **(a) Subject to**
3 **subsection (b)**, a permit issued under this chapter expires two (2) years
4 after the permit is issued.

5 **(b) The commission may adopt rules under IC 4-22-2 providing**
6 **that a type of permit specified in the rules expires more than two**
7 **(2) years after it is issued.**

8 SECTION 2. IC 14-26-2-23, AS AMENDED BY P.L.6-2008,
9 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2009]: Sec. 23. (a) Unless a person obtains a permit from the
11 department under this section and conducts the activities according to
12 the terms of the permit, a person may not conduct the following
13 activities:

14 (1) Over, along, or lakeward of the shoreline or water line of a
15 public freshwater lake:

16 (A) excavate;

17 (B) place fill; or



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- 1 (C) place, modify, or repair a temporary or permanent
- 2 structure.
- 3 (2) Construct a wall whose lowest point would be:
- 4 (A) below the elevation of the shoreline or water line; and
- 5 (B) within ten (10) feet landward of the shoreline or water line,
- 6 as measured perpendicularly from the shoreline or water line;
- 7 of a public freshwater lake.
- 8 (3) Change the water level, area, or depth of a public freshwater
- 9 lake or the location of the shoreline or water line.
- 10 (b) An application for a permit for an activity described in
- 11 subsection (a) must be accompanied by the following:
- 12 (1) A nonrefundable fee of one hundred dollars (\$100).
- 13 (2) A project plan that provides the department with sufficient
- 14 information concerning the proposed excavation, fill, temporary
- 15 structure, or permanent structure.
- 16 (3) A written acknowledgment from the landowner that any
- 17 additional water area created under the project plan is part of the
- 18 public freshwater lake and is dedicated to the general public use
- 19 with the public rights described in section 5 of this chapter.
- 20 (c) The department may issue a permit after investigating the merits
- 21 of the application. In determining the merits of the application, the
- 22 department may consider any factor, including cumulative effects of
- 23 the proposed activity upon the following:
- 24 (1) The shoreline, water line, or bed of the public freshwater lake.
- 25 (2) The fish, wildlife, or botanical resources.
- 26 (3) The public rights described in section 5 of this chapter.
- 27 (4) The management of watercraft operations under IC 14-15.
- 28 (5) The interests of a landowner having property rights abutting
- 29 the public freshwater lake or rights to access the public freshwater
- 30 lake.
- 31 (d) A contractor or agent of the landowner who engages in an
- 32 activity described in subsection (a)(1), (a)(2), or (a)(3) must comply
- 33 with the terms of a permit issued under this section.
- 34 (e) The commission shall adopt rules under IC 4-22-2 to do the
- 35 following:
- 36 (1) Assist in the administration of this chapter.
- 37 (2) Provide objective standards for issuing permits under this
- 38 section, including standards for the configuration of piers, boat
- 39 stations, platforms, and similar structures. The standards:
- 40 (A) may provide for a common use if the standard is needed to
- 41 accommodate the interests of landowners having property
- 42 rights abutting the public freshwater lake or rights to access

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the public freshwater lake; and

(B) shall exempt any class of activities from licensing, including temporary structures, if the commission finds that the class is unlikely to pose more than a minimal potential for harm to the public rights described in section 5 of this chapter.

(3) Establish a process under IC 4-21.5 for the mediation of disputes among persons with competing interests or between a person and the department. A rule adopted under this subsection must provide that:

(A) if good faith mediation under the process fails to achieve a settlement, the department shall make a determination of the dispute; and

(B) a person affected by the determination of the department may seek administrative review by the commission.

(f) After:

(1) a final agency action in a mediation under subsection (e)(3) that makes a determination of a dispute among persons with competing riparian interests; and

(2) the completion of judicial review or the expiration of the opportunity for judicial review;

a party to the dispute may seek enforcement of the determination in a civil proceeding. The remedy provided under this subsection is supplemental to any other legal remedy of the party.

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